

WILLIAMSBURG CITY COUNCIL
December 12, 2002
MINUTES

The Williamsburg City Council held its regular monthly meeting on December 12, 2002, at 2:00 p.m., in the Council Chambers of the Stryker Building.

ATTENDANCE

Present were Ms. Zeidler, Messrs. Haulman, Houghland, Scruggs and Tabb. Also present were City Manager Tuttle, City Attorney Phillips, and City Clerk Crist.

Staff Attending: Department Heads Weiler, Yost, Nester, Hudson, Serra, and Walentisch.

CALL TO ORDER

The meeting was called to order by Mayor Zeidler.

COUNCIL MINUTES

Mr. Houghland Moved Approval of the City Council Minutes of November 12 and 14, 2002. The Motion Was Seconded by Mr. Tabb. Mayor Zeidler noted she informed the Clerk of a few typographical errors to be corrected.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None

MATTERS OF SPECIAL PRIVILEGE

"2002 Best Recreation Center Project in Virginia" Award, Parks and Recreation Director Paul Hudson

Mayor Zeidler asked Mr. Hudson to come forward. Mr. Hudson said it was an honor to receive this award in recognition of the Quarterpath Park Recreation Center for "Best New Renovation Project for 2002." One hundred projects were nominated in 12 categories. Mr. Hudson thanked Mr. Tuttle, the members of Council, past members of Council George Genakos, Channing M. Hall, III, and Gilbert Granger, and Tom Tingle and Guernsey Tingle Architects for the design. Mr. Hudson presented the plaque to City Council.

The Mayor thanked him for bringing good news and said she would return the plaque to be hung in the Recreation Center. The city was very proud of the planning of the project and of the design. Council was pleased to receive the award and recognized Mr. Hudson and his staff (applause).

Presentation of Comprehensive Annual Financial Report for FY 02—Russell Meyers of Eggleston Smith, P.C.

Council members received a copy of Mr. Tuttle's report dated December 4, 2002, which included a copy of the City's Comprehensive Annual Financial Report and Management Letter for the year ending June 30, 2002. Mr. Serra, Finance Director, gave Council a review of General Fund Revenues by Source, General Fund Expenditures by Function, Operating Surplus, Fund Balances, and Cash and Investment Balances. He also reviewed the highlights of General Funds Operations to include Revenues, Expenditures, and Salaries and Benefits (See Attached Information). Mr. Serra introduced Mr. Russell Meyers of Eggleston Smith, PC.

Mr. Meyers said he was pleased to appear before Council for the fourth year. The Code of Virginia requires that the auditors present the results of the Audit to Council. Mr. Meyers briefly reviewed the Audit Report for Council members and noted that the city complied fully with Federal regulations, financial reporting, and internal controls. The city is already complying with GASBY 34 guidelines that require the financial statement be on a fund basis or more of a business-like reporting method.

Mr. Meyers reviewed the city's assets, offset by its debts. Assets totaled \$100 Million, Liabilities \$23 Million, totaling a net worth of \$77 Million.

Mayor Zeidler thanked Mr. Meyers. She said the Finance and Audit Committee met on December 11 and was pleased to hear that the city is financial strong and sound. It was an accomplishment to meet the GASBY Standards.

Mr. Houghland was heartened to see the surplus, which was unique in government, and most especially in a poor revenue year.

Mr. Scruggs thanked Mr. Serra for assisting him in comprehending the audit.

Mr. Haulman congratulated the department heads. He felt that citizens got a big bang for their buck.

Mr. Tuttle said that the surplus allows the city to pay for capital projects without borrowing. He noted that the operating surplus was \$400,000, and that was tight and must be watched.

Mr. Meyers was pleased to report the Management Letter makes no recommendations or suggestions for improvement. The city is well run.

PUBLIC HEARINGS:

PCR #14-02: Request of Williamsburg Presbyterian Church, 215 Richmond Road, Special Use Permit for a New Sanctuary, Expanding Capacity from 275 to 500 seats.

Reference for this item was Mr. Nester's report dated November 21, 2002. Mr. Nester reviewed his report and said that the church was asking for approval of a special use permit (SUP) for a new sanctuary, expanding capacity from 275 seats to 500 seats. Council previously approved an SUP for expansion to 540 seats. Using overhead slides of the building and site, Mr. Nester reviewed the parking requirements for the proposed expansion and the parking to be provided on and off the site. The church has a lease agreement with William and Mary to use 54 parking spaces on an adjacent lot. A total of 72 spaces is available and satisfies the basic requirement. He noted there is adequate parking in the downtown area. People going to church may have to walk a further distance.

Mr. Nester said the ARB has granted conceptual approval with conditions, and the BZA has granted a variance. Planning Commission recommended that Council approve the Special Use Permit with contingencies.

Mayor Zeidler opened the public hearing.

Mr. William Thompson, representing the church, recognized Mr. Nester's work and said he had worked with the church for more than a year.

No one else wished to speak. The public hearing was closed.

Mr. Houghland said he would recuse himself from voting because he was a member of the church.

Mr. Scruggs appreciated the work of staff for their creativity and flexibility in looking at this project. He reviewed this project when he was on the Planning Commission and had some concerns about the pressure this might put on the downtown area and the agreement with the College for parking is for five years and not forever. Even though this would be for a short time period, he was concerned about the possible impact on businesses. He thanked the College for their cooperation and help with parking issues.

Council members concurred that it was important to maintain a vibrant downtown, especially with churches and schools, and that it was important that all entities work together.

Mr. Haulman Moved That City Council Approve the Special Use Permit to Allow the Williamsburg Presbyterian Church to Build A New Sanctuary at 215 Richmond Road, Expanding Capacity from 275 to 500 Seats, in Accordance with the Submitted Conceptual Site Plan, in Accordance with the Parking License Agreement with the College of William and Mary (recorded in Deed Book\ 89, Pages 99 to 104), and Contingent Upon Final Site Plan Approval by the Planning Commission. The Motion Was Seconded by Mr. Scruggs.

Mr. Houghland commented to Mr. Thompson that he was sorry that his father was not here to build the church sanctuary.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Tabb

No: None

Abstain: Mr. Houghland

REPORTS

Monthly Financial Statement

The Monthly Financial Report was received and ordered filed.

Monthly Departmental Operating Reports

The Monthly Departmental Operating Reports were received and ordered filed.

Water Surcharge: Mr. Tuttle reported that the city is no longer purchasing water from the City of Newport News and the surcharge will end with the December billings.

Human Services: The Mayor asked Mr. Walentisch about the increase in services over the previous year. Mr. Walentisch responded that the increase in services reflected an increase in Medicaid cases and the unanticipated individual and family crises impact on human service programs. Some of the change is cyclical and some caused by the economic downturn.

PLANNING REPORT

ARB SIGN #43-02: Request of Beach House Grill Restaurant, 322 Second Street, to locate a freestanding sign in the public right-of-way.

Reference for this item was Mr. Nester's report dated December 6, 2002, Mr. Nester noted that the sign regulations were amended November 2000 to allow a property owner to locate a sign on the city right-of-way if certain conditions are met and with approval of City Council. The Beach House Grill is proposed to remove their existing sign and locate a new sign fifteen feet from the sidewalk. Mr. Nester showed renderings of the sign. The ARB approved the sign on November 27. Staff recommended approval of the sign location with conditions.

Mr. Haulman Moved that City Council Approve the Location of the Proposed Sign on the City Right-of-Way Subject to the Following Conditions:

- 1. A license being issued for five years from the date of approval (December 12, 2002), which could automatically be renewed.*
- 2. Approval is granted for the applicant only, and shall not be transferable to any future tenant or business.*
- 3. The sign must be located as approved by the Public Works staff and staked in the field.*
- 4. A right-of-way permit must be obtained before installation of the sign.*
- 5. A certificate of insurance showing that there is in force commercial general liability insurance coverage on an occurrence basis insuring against all claims, loss, cost, damage, expense or liability from loss of life or damage or injury to persons or property arising out or relating to such sign. Such insurance shall be by an insurance company licensed to do business in Virginia acceptable to the City Manager and shall include the City as an additional insured. Such certificate of insurance shall provide to 30 days advance notice to the City prior to cancellation or modification of such policy. Said insurance shall be maintained in force at all times at the permittee's expense when the sign remains on public right-of-way and shall protect and save the City harmless from any and all claims or demands for damages by reason of any negligence of the sign hanger, contractor, sign owner, as well as the owner, tenants and occupants of the property to which the sign pertains and/or their respective agents; as well as by reason of defects in the construction of such sign and the maintenance of such sign including, but not limited to, damages resulting from the collapse, failure or combination of the sign or parts thereof.*
- 6. A bond with corporate surety, letter of credit or certified check must be submitted by the owner, approved to form by the City Attorney, to cover the cost of the removal of the sign and its supporting structures if the sign is not removed at the expiration of the time period for which it is authorized or if the sign is not maintained in accordance with Section 21-753 of the Zoning Ordinance. The validity period for the bond with corporate surety or letter of credit shall be the same as the time period approved for the sign by City Council, and shall remain in effect until released by the City.*
- 7. The existing entrance sign and monument sign must be removed as required by the Zoning Ordinance when the new sign is erected.*

The Motion Was Seconded by Mr. Houghland.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None

Mr. Phillips clarified that the city requires insurance for signs to cover any problems from the sign such as poor visibility.

City Manager Reports

Public-Private Transportation Act Implementation–Treyburn Drive

Reference for this item was Mr. Tuttle's report dated December 5, 2002, which included a copy of the proposal from Massie Contractors. Mr. Tuttle said that in May 2002, Council adopted the Public Private Transportation Act Implementation Guidelines and the city and VDOT entered into an "Agreement for the Development and Administration of Treyburn Drive." The city has received a proposal from Jack L. Massie Contractors, Inc. to lead a team to develop Treyburn Drive. Massie's proposal was the only in answer to the city's request for proposals. The next step in the process is for Council to authorize negotiation of a Comprehensive Agreement between the city and Massie.

Mr. Tuttle said if Council wishes to move forward, Council needs to authorize the City Manager and City Attorney to negotiate the agreement with Massie, and the agreement be brought back to Council in January or February for action. Mr. Tuttle said the preliminary work would be done in 2003 and construction in 2004.

Mr. Haulman Moved That City Council Authorize the City manager and City Attorney to Negotiate a Comprehensive Agreement Under the Public-Private Transportation Act Implementation Guidelines with Jack L. Massie Contractor, Inc., for the Development of Treyburn Drive, to be Brought Back to City Council for Action. The Motion Was Seconded by Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None

Colonial Family Violence Fatality Review Team, Proposed Resolution #02-19

Reference for this item was Mr. Tuttle's report dated December 5, 2002, which included a copy of the Proposed Resolution #02-19. Mr. Tuttle said the Code of Virginia allows local jurisdictions to establish "family violence fatality review teams" to look into incidents of homicide or suicide. The four jurisdictions of James City, Poquoson, Williamsburg, and York have decided to act together to form the Colonial Area Family and Intimate Partner Violence Fatality Review Team. The proposed resolution authorizes our partnership in the review team.

Council members concurred to support the resolution.

Mr. Haulman Moved That City Council Approve Proposed Resolution #02-19, A Resolution to Establish the Colonial Area Family and Intimate Partner Violence Fatality Review Team. The Motion Was Seconded by Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None

(SEE ATTACHED RESOLUTION #02-19)

City Attorney Report

Change to City Charter, Filling Council Vacancies

Reference for this item was Mr. Phillips report dated December 5, 2002, which included Charter change ordinance drafts. Mr. Phillips reviewed the information provided in his report. He suggested that Council consider the alternatives.

1. Leave the City Charter Section 8 as it is currently written.
2. Amend the City Charter to do away with Section 8 and adopt state law.
3. Amend Section 8 to provide for a temporary appointment pending the next general councilmanic election if the vacancy occurs more than two years before the expiration of the term. If the vacancy occurs two years or less before expiration, then the existing council members would make an appointment for the remainder of the term.

Mr. Phillips asked Council for direction in this matter. He reported that anything Council chooses to do would have to be done in 2003 for submission to the General Assembly for action in 2004. This gives Council time to carefully consider their alternatives. If Council wishes to change the City Charter, a public hearing on the preferred option would be required for public input.

Council members and Mr. Phillips discussed possible options. Mr. Phillips said the most straightforward action would be to follow State Law. The third option had more variables than state law. Council members considered holding a special election if a resignation occurred, although it would be an expensive process. However, a resignation does not happen often. Mr. Haulman said that Council might want to consider holding a special election, which would be the most democratic process.

Mr. Phillips said he would research the provisions of the State Code regarding special elections and prepare a suggested draft ordinance for Council's consideration at a later meeting.

UNFINISHED BUSINESS

APPOINTMENTS TO BOARDS AND COMMISSIONS

Mr. Houghland Moved That City Council Reappoint the Following Individuals:

Mr. Charles E. Friend to the Planning Commission for a four-year term to expire 12/31/06; and

Mr. Hugh Williams to the Architectural Review Board for a four-year term to expire 12/31/06; and

Mr. David W. Kent to the Board of Building Code Appeals for a five-year term to expire 12/31/07; and

Mr. David R. Schultz to the Regional Issues Committee for a term to expire 12/31/04; and

That City Council Appoint the following individuals:

Mr. Douglas Pons to the Planning Commission for a four-year term to expire 12/31/06, and Ms. Elaine McBeth to the Planning Commission to fill the unexpired term of Mr. Billy Scruggs to expire 12/31/03; and

Mr. Terrance Durbin to the Architectural Review Board for a four-year term to expire 12/31/06, and Mr. David Watson to the Architectural Review Board to fill the unexpired term of Ms. Holly Williams to expire 12/31/04; and

Mr. John Balint to the Board of Building Code Appeals for a five-year term to expire 12/31/07; and

Mr. John Green to the Regional Issues Committee to fill the expired term of Mr. Barshis to expire 12/31/03; and

Mr. Richard Porterfield to fill the unexpired term of Mr. Douglas Pons on the Industrial Development Authority to expire 6/8/05; and

That Council Appoint The Honorable Samuel T. Powell, III, Judge and Louis P. Messier, Associate Professor, College of William and Mary, to the Colonial Community Criminal Justice Board for a four year term; and

Recommend Michael J. Fox and Donald L. West to the “community groups, citizens and business” category of the Local Emergency Planning Committee, for terms to expire August 31, 2005, and Billy S. Scruggs as “elected official” representative to the Local Emergency Planning Committee for a term to expire August 31, 2005; and

Recommend Channing Hall, to the “community groups, citizens and business” category of the Local Emergency Planning Committee for a term to expire August 31, 2003.

Mr. Houghland was appreciative of everyone that applied for appointment.

NEW BUSINESS

Industrial Revenue Bond Issue for Colonial Williamsburg Foundation, *Proposed Resolution #02-20*

Reference for this item was Mr. Tuttle’s report dated December 5, 2002, and the draft resolution and Industrial Development Authority Resolution. Mr. Tuttle said this request was for approval of \$3 million in revenue bonds for the Colonial Williamsburg Foundation.

Mr. Phillips said that the Foundation was applying for the bonds to be used for construction of the bridge over 132Y near the Visitor Center. The total cost of the project was \$5 million, with the bridge portion costing \$3 million. The IDA held a public hearing on December 10, 2002. No one spoke in objection to the revenue bond. The IDA unanimously passed the inducement resolution. Mr. Phillips added that neither the city nor FDA would be financially responsible.

Mayor Zeidler stated that she would abstain from voting and disclosed that she was an employee of the Colonial Williamsburg Foundation.

Mr. Houghland stated he would abstain and disclosed that his wife was an employee of the Colonial Williamsburg Foundation.

Mr. Haulman disclosed that his wife was an employee of the College of William and Mary, teaching Early American History. Mr. Phillips said that CWF does contribute money to the College, but Mr. Haulman’s wife is not answerable to the Foundation. Therefore, Mr.

Haulman does not have to abstain.

Mr. Haulman Moved that City Council Approve Resolution #02-20, Approving the Issuance of up to \$3,000,000 in Industrial Development Authority Revenue Bonds for Capital Improvements by the Colonial Williamsburg Foundations. The Motion Was Seconded by Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Tabb

No: None

Abstain: Zeidler, Houghland

(SEE ATTACHED RESOLUTION #02-20)

OPEN FORUM

Mayor Zeidler opened the session.

No one wished to speak. The session was closed.

The meeting adjourned at 3:26 p.m.

Approved: January 9, 2003

Shelia Y. Crist, Clerk of Council

Jeanne Zeidler, Mayor